

State of Utah
Administrative Rule Analysis

NOTICE OF PROPOSED RULE

- * The agency identified below in box 1 provides notice of proposed rule change pursuant to Utah Code Section 63G-3-301.
- * Please address questions regarding information on this notice to the agency.
- * The full text of all rule filings is published in the Utah State Bulletin unless excluded because of space constraints.
- * The full text of all rule filings may also be inspected at the Division of Administrative Rules.

DAR file no:		Date filed:	
State Admin Rule Filing Id:		Time filed:	
	Agency No.	Rule No.	Section No.
Utah Admin. Code Ref (R no.):	R 156	- 15A	- 231
Changed to Admin. Code Ref. (R no.):	R	-	-

1.	Agency:	Commerce/Division of Occupational and Professional Licensing		
	Room no.:			
	Building:	Heber M. Wells Building		
	Street address 1:	160 East 300 South		
	Street address 2:			
	City, state, zip:	Salt Lake City UT 84111-2316		
	Mailing address 1:	PO Box 146741		
	Mailing address 2:			
	City, state, zip:	Salt Lake City UT 84114-6741		
	Contact person(s):			
	Name:	Phone:	Fax:	E-mail:
	Robyn Barkdull	801-530-6727	801-530-6511	rbarkdull@utah.gov

(Interested persons may inspect this filing at the above address or at the Division of Administrative Rules during business hours)

2.	Title of rule or section (catchline):
	Administration of Building Code Training Fund and Factory Built Housing Fees Account
3.	Type of notice:
	New ____; Amendment XXX; Repeal ____; Repeal and Reenact ____
4.	Purpose of the rule or reason for the change:
	State compliance agencies that enforce statewide-adopted building codes charge a 1% surcharge on all building permits issued and submit 80% of the amount collected to the Division as the Uniform Building Code Commission Education Fund (Fund). The Fund is utilized to provide training with respect to codes and code amendments to building inspectors and individuals engaged in construction-related trades. The balance of the Fund has continued to increase over the last few years as a result of decreased funding requests. In an effort to address the underutilization of the Fund, the Division and the Uniform Building Code Commission (UBCC) Education Advisory Committee, as well as interested stakeholders, reviewed the process for reimbursement from the Fund and determined solutions that would increase grant money for underserved populations and geographical areas. An additional purpose of the filing is to establish maximum reimbursement rates for instructor fees and maximum reimbursement rates for a total event.
5.	This change is a response to comments from the Administrative Rules Review Committee.
	No XXXX; Yes ____
6.	Summary of the rule or change:

	<p>Paragraph (4)(d)(i): Instructor fees for approved events that use grant money have not been established previously by rule. The UBCC Education Committee has considered local and national instructor rates and recommends up to \$150 per hour as a general guideline for approved fees reimbursed through a funding grant. The proposed rule also provides for rates that exceed \$150 per hour to be further considered by the Committee for approval by the Division. Paragraph (4)(h): Maximum reimbursement rates for events that use grant money have not been established previously by rule. The UBCC Education Committee has recommended a maximum reimbursement rate of the lesser of \$10 per student hour or the cost of all approved actual expenditures. Paragraph (5)(a) through (d): The proposed rule change lists items that may be reimbursed by the Division above the maximum reimbursement rate, based upon the criteria established in Subsection (4), and upon recommendation and approval of the Committee, to include: text books, code books, code update books, Division licensee mailing list, cost to upload continuing education hours to the Division's online registry, and reasonable advertising, printing and mailing costs. Paragraph (9): Proposed amendment establishes that if an approved event or joint event is not held, no amount is reimburseable with the exception of approved costs as outlined in Subsection (5)(d).</p>
7.	<p>Aggregate anticipated cost or savings to:</p> <p>A) State budget:</p> <p>Affected: No ____; Yes XXX</p> <p>There will be no additional cost to the state budget over and above the current allocation of the 1% surcharge on all building permits, which is appropriated as the UBCC Education Fund. Although the balance of the Fund will decrease as additional approved items are reimbursed from the Fund, these costs cannot be quantified. The Division will also incur minimal costs of approximately \$100 to print and distribute the rule once the proposed amendments are made effective. Any costs incurred will be absorbed in the Division's current budget.</p> <p>B) Local government:</p> <p>Affected: No ____; Yes XXX</p> <p>The proposed amendments impact only those government agencies that have applied for and received funding grants to teach code classes to individuals involved in the construction trades. The amendments will result in overall lower costs for those local entities because the proposed amendments qualify additional expenses to become eligible for reimbursement. These costs cannot be quantified by the Division.</p> <p>C) Small businesses ("small business" means a business employing fewer than 50 persons):</p> <p>Affected: No XXX; Yes ____</p> <p>The proposed amendments neither apply to nor impact small businesses because small businesses are not eligible for funding grants.</p> <p>D) Persons other than small businesses, businesses, or local government entities ("person" means any individual, partnership, corporation, association, governmental entity, or public or private organization of any character other than an agency):</p> <p>Affected: No ____; Yes XXX</p> <p>The proposed amendments impact only those schools, colleges, universities, government agencies, and professional associations or organizations involved in the construction trades that have applied for and received funding grants to teach code classes to individuals in the construction trades. The proposed amendments will result in lower costs for those entities because the proposed amendments qualify additional expenses to become eligible for reimbursement. These costs and savings cannot be quantified by the Division.</p>
8.	<p>Compliance costs for affected persons:</p> <p>The proposed amendments impact only those schools, colleges, universities, government agencies, and professional associations or organizations involved in the construction trades that have applied for and received funding grants to teach code classes to individuals in the construction trades. The proposed amendments will result in lower costs for those entities because the proposed amendments qualify additional expenses to become eligible for reimbursement. These costs and savings cannot be quantified by the Division.</p>
9.	<p>A) Comments by the department head on the fiscal impact the rule may have on businesses:</p> <p>This filing outlines circumstances in which funds from the Uniform Building Code Commission Education Fund may be used to reimburse persons who provide industry training regarding construction-related regulations. Providers that qualify for reimbursement will realize some financial benefit, the amount of which will vary and cannot be anticipated.</p> <p>B) Name and title of department head commenting on the fiscal impacts:</p> <p>Francine A. Giani, Executive Director</p>

10.	This rule change is authorized or mandated by state law, and implements or interprets the following state and federal laws. State code or constitution citations (required) (e.g., Section 63G-3-402; Subsection 63G-3-601(3); Article IV) :		
	Subsection 58-1-106(1)(a)	Subsection 58-1-202(1)(a)	
	Subsection 15A-1-204(6)	Section 15A-1-205	
11.	This rule adds, updates, or removes the following title of materials incorporated by references (a copy of materials incorporated by reference must be submitted to the Division of Administrative Rules; <i>if none, leave blank</i>):		
		First Incorporation	Second Incorporation
	Official Title of Materials Incorporated (from title page)		
	Publisher		
	Date Issued		
	Issue, or version		
	ISBN Number (optional)		
	ISSN Number (optional)		
	Cost of Incorporated Reference		
	Action: Adds, updates, or removes		
	(If this rule incorporates more than two items by reference, please attach additional pages)		
12.	The public may submit written or oral comments to the agency identified in box 1. (The public may also request a hearing by submitting a written request to the agency. The agency is required to hold a hearing if it receives requests from ten interested persons or from an association having not fewer than ten members. Additionally, the request must be received by the agency not more than 15 days after the publication of this rule in the Utah State Bulletin. See Section 63G-3-302 and Rule R15-1 for more information.)		
	A) Comments will be accepted until 5:00 p.m. on (mm/dd/yyyy):		10/15/2014
	B) A public hearing (optional) will be held:		
	On (mm/dd/yyyy):	At (hh:mm AM/PM):	At (place):
	09/16/2014	1:00 PM	160 East 300 South, Conference Room 402 (4th floor), Salt Lake City, Utah
13.	This rule change may become effective on (mm/dd/yyyy):		10/22/2014
	NOTE: The date above is the date on which this rule MAY become effective. It is NOT the effective date. After the date designated in Box 12(A) above, the agency must submit a Notice of Effective Date to the Division of Administrative Rules to make this rule effective. Failure to submit a Notice of Effective Date will result in this rule lapsing and will require the agency to start the rulemaking process over.		
14.	Indexing information -- keywords (maximum of four, in lower case, except for acronyms (e.g., "GRAMA") or proper nouns (e.g., "Medicaid")); may not include the name of the agency:		
	contractors	building codes	
	building inspection	licensing	
15.	Attach an RTF document containing the text of this rule change (filename):		R156-15A.pr2
To the agency: Information requested on this form is required by Sections 63G-3-301, 302, 303, and 402. Incomplete forms will be returned to the agency for completion, possibly delaying publication in the <i>Utah State Bulletin</i> , and delaying the first possible effective date.			
AGENCY AUTHORIZATION			

Agency head or designee, and title:	Mark B. Steinagel, Director	Date (mm/dd/yyyy):	08/19/2014
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eRules v. 2: ProposedRule.doc 09/03/2009 (<http://www.rules.utah.gov/agencyresources/forms/ProposedRule.doc>)

R156. Commerce, Occupational and Professional Licensing.

R156-15A. State Construction Code Administration and Adoption of Approved State Construction Code Rule.

R156-15A-231. Administration of Building Code Training Fund and Factory Built Housing Fees Account.

In accordance with Subsection 15A-1-209(5)(c), the Division shall use monies received under Subsection 15A-1-209(5)(a) to provide education regarding codes and code amendments to building inspectors and individuals engaged in construction-related trades or professions. In accordance with Subsection 58-56-17.5(2)(c), the Division shall use a portion of the monies received under Subsection 58-56-17.5(1) to provide education for factory built housing. The following procedures, standards, and policies are established to apply to the administration of these separate funds:

(1) The Division shall not approve or deny education grant requests from the Building Code Training Fund or from the Factory Built Housing Fees Account until the Uniform Building Code Commission (UBCC) Education Advisory Committee ("the Committee"), created in accordance with Subsections 58-1-203(1)(f) and R156-15A-201(1)(a), has considered and made its recommendations on the requests.

(2) Appropriate funding expenditure categories include:

(a) grants in the form of reimbursement funding to the following organizations that administer code related or factory built housing educational events, seminars or classes:

(i) schools, colleges, universities, departments of universities, or other institutions of learning;

(ii) professional associations or organizations; and

(iii) governmental agencies.

(b) costs or expenses incurred as a result of educational events, seminars, or classes directly administered by the Division;

(c) expenses incurred for the salary, benefits or other compensation and related expenses resulting from the employment of a Board Secretary;

(d) office equipment and associated administrative expenses required for the performance of the duties of the Board Secretary, including but not limited to computer equipment, telecommunication equipment and costs and general office supplies; and

(e) other related expenses as determined by the Division.

(3) The following procedure shall be used for submission, review and payment of funding grants:

(a) A funding grant applicant shall submit a completed "Application for Building Code Training Funds Grant" or a "Factory Built Housing Education Grant Application" a minimum of 15 days prior to the meeting at which the request is to be considered and prior to the training event on forms provided for that purpose by the Division. Applications received less than 15 days prior to a meeting may be denied.

(b) Payment of approved funding grants will be made as reimbursement after the approved event, class, or seminar has been held and the required receipts, invoices and supporting documentation, including proof of

payment, if requested by the Division or Committee, have been submitted to the Division.

(c) Approved funding grants shall be reimbursed only for eligible expenditures which have been executed in good faith with the intent to ensure the best reasonable value.

(d) A Request for Reimbursement of an approved funding grant shall be submitted to the Division within 60 days following the approved event, class, or seminar unless an extenuating circumstance occurs. Written notice must be given to the Division of such an extenuating circumstance. Failure to submit a Request for Reimbursement within 60 days shall result in non-payment of approved funds, unless an extenuating circumstance has been reviewed and accepted by the Division.

(4) The Committee shall consider the following in determining whether to recommend approval of a proposed funding request to the Division:

(a) the fund balance available and whether the proposed request meets the overall training objectives of the fund, including but not limited to:

(i) the need for training on the subject matter;

(ii) the need for training in the geographical area where the training is offered; and

(iii) the need for training on new codes being considered for adoption;

(b) the prior record of the program sponsor in providing codes training including:

(i) whether the subject matter taught was appropriate;

(ii) whether the instructor was appropriately qualified and prepared; and

(iii) whether the program sponsor followed appropriate and adequate procedures and requirements in providing the training and submitting requests for funding;

(c) costs of the facility including:

(i) the location of a facility or venue, or the type of event, seminar or class;

(ii) the suitability of said facility or venue with regard to the anticipated attendance at or in connection with additional non-funded portions of an event or conference;

(iii) the duration of the proposed educational event, seminar, or class; and

(iv) whether the proposed cost of the facility is reasonable compared to the cost of alternative available facilities;

(d) the estimated cost for instructor fees including:

(i) a reimbursement rate not to exceed \$150 per instruction hour without further review and approval by the Committee;

(~~i~~ii) the experience or expertise of the instructor in the proposed training area;

(iii) the quality of training based upon events, seminars or classes

that have been previously taught by the instructor;

(~~[(i)]~~iv) the drawing power of the instructor, meaning the ability to increase the attendance at the proposed educational event, seminar or class;

(~~[(i)]~~v) travel expenses; and

(vi) whether the proposed cost for the instructor or instructors is reasonable compared to the costs of similar educational events, seminars, or classes;

(e) the estimated cost of advertising materials, brochures, registration and agenda materials, including:

(i) printing costs that may include creative or design expenses; and

(ii) ~~whether delivery or mailing costs, including postage and handling, are reasonable compared to the cost of alternate available means of delivery~~;

(f) other reasonable and comparable cost alternatives for each proposed expense item; ~~and~~

(g) ~~any~~ other information the Committee reasonably believes may assist in evaluating a proposed expenditure; and

(h) a total reimbursement rate of the lesser of \$10 per student hour or the cost of all approved actual expenditures.

(5) The Division, after consideration and recommendation of the Committee, based upon the criteria in Subsection (4), may reimburse the following items in addition to the lesser of \$10 per student hour or the cost of all approved actual expenditures:

(a) text books, code books, or code update books;

(b) cost of one Division licensee mailing list per provider per two-year renewal period;

(c) cost incurred to upload continuing education hours into the Division's online registry for contractors, plumbers, electricians or elevator mechanics; and

(d) reasonable cost of advertising materials, brochures, registration and agency materials, including:

(i) printing costs that may include creative or design expenses; and

(ii) delivery or mailing costs.

(~~[(5)]~~6) Joint function.

(a) "Joint function" means a proposed event, class, seminar, or program that provides code or code related or factory built housing education and education or activities in other areas.

(b) Only the prorated portions of a joint function that are code and code related or factory built housing education are eligible for a funding grant.

(c) In considering a proposed funding request that involves a joint function, the Committee shall consider whether:

(i) the expenses subject to funding are reasonably prorated for the costs directly related to the code and code amendment or factory built housing education; and

(ii) the education being proposed will be reasonable and successful

in the training objective in the context of the entire program or event.

(~~[6]~~7) Advertising materials, brochures and agenda or training materials for a Building Code Training funded educational event, seminar, or class shall include a statement that acknowledges that partial funding of the training program has been provided by the Utah Division of Occupational and Professional Licensing from the 1% surcharge funds on all building permits.

(~~[7]~~8) Advertising materials, brochures and agenda or training materials for a Factory Built Housing Fees Account funded educational event, seminar, or class shall include a statement that acknowledges that partial funding of the training program has been provided by the Utah Division of Occupational and Professional Licensing from surcharge fees on factory built housing sales.

(9) If an approved event or joint event is not held, no amount is reimbursable with the exception of the costs described in Subsection (5) (d) .

KEY: contractors, building codes, building inspection, licensing

Date of Enactment or Last Substantive Amendment: ~~[July 22,]~~2014

Authorizing, and Implemented or Interpreted Law: 58-1-106(1) (a) ; 58-1-202(1) (a) ; 15A-1-204(6) ; 15A-1-205